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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/703,498	10/31/2000	Steven A. Sunshine	185641-007310US	2952

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EXAMINER

TSAI, CAROL S W

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

09/703,498

Applicant(s)

SUNSHINE, STEVEN A.

Examiner

Carol S. Tsai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14 is/are allowed.
- 6) ☒ Claim(s) 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/3/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

2. Claims 19-22 are objected to because of the following informalities:

In claim 19, lines 6-7, "said second device" should read - - a second device - -.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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4. Claims 15-22 are rejected under 35 U.S.C. 102(e) as being anticipated by U. S. Patent No. 6,422,061 to Sunshine et al.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

With respect to claims 15-18, Sunshine et al. disclose a system for detecting and transferring data pertaining to an unknown analyte, comprising: a first device (e-nose device 100 shown on Fig. 16) configured to capture and transmit said data pertaining to said unknown analyte (analyte 16 shown on Fig. 16); a second device (processor 12 shown on Fig. 16) configured to receive and process said data pertaining to said unknown analyte from said first device; wherein said first device transmits said data pertaining to said unknown analyte to said second device via a computer network (computer network 18 shown on Fig. 16) (see Figs. 16-18; col. 16, lines 20-34; col. 27, lines 24-67; and col. 29, lines 17-63); and wherein the second device corresponds to a server computer (see Fig. 16 and col. 28, lines 43-52).

As to claims 19-20 and 22, Sunshine et al. also disclose a system for detecting and transferring data pertaining to an analyte, said system comprising: a first device (e-nose device 100 shown on Fig. 16) including: an analyte capturing unit configured to capture signature analyte data pertaining to said analyte using a sensor array of said first device; a transmitting (e-nose device 100 shown on Fig. 16) and receiving unit (e-nose device 100 shown on Fig. 16)

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configured to transmit a request to a second device (processor 12 shown on Fig. 16), over a computer network, for reference analyte data, wherein the reference analyte data is to be compared with the captured signature analyte data at said first device, said transmitting and receiving unit configured to receive the reference analyte data sent by said second device to said first device over the computer network ; and an analysis unit configured to analyze the captured signature analyte data, based on the reference analyte data obtained from said second device over said computer network (see Figs. 16-18; col. 16, lines 20-34; col. 27, lines 24-67; and col. 29, lines 17-63).

As to claim 21, Sunshine et al. also disclose said electronic library being accessible by said second device over a second computer network separate from said computer network (see Fig. 16 and col. 28, lines 43-52).

Response to Arguments

5. Applicant's arguments regarding to claim 15-22 filed February 14, 2005 have been fully considered but they are not persuasive because as set forth in the art rejection above, Sunshine et al. do disclose the claimed invention.

Allowable Subject Matter

6. Claims 1-14 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter:

U. S. Patent No. 6,422,061 to Sunshine et al. is the reference closest to the claimed invention. Sunshine et al. disclose a system for detecting and transferring data pertaining to an unknown analyte, the system comprising: a device manager; a data capture module coupled to the device manager for capturing data pertaining to the unknown analyte at a first geographic location; a first data formatting module coupled to the device manager for formatting data captured by the data capture module into a transmissible format; and a first input/output (I/O) module coupled to the device manager for transmitting data formatted by the first data formatting module to a processor at a second geographic location via a computer network; a processor manager; a data acquisition module coupled to the processor manager for receiving formatted data from the device manager; a second data formatting module coupled to the processor manager for decoding data received by the data acquisition module; a database interface module coupled to the processor manager for retrieving data of known analytes from an electronic library; an analysis module coupled to the processor manager for performing analysis on data decoded by the second data formatting module and generating an analysis result; and a second I/O module coupled to the processor manager for managing communications between the processor manager and other entities, wherein said device manager resides in a first device. However, Sunshine et al. do not teach said processor manager and said electronic library reside in a second devices and wherein said second device corresponds to a server connectable to said first device via the computer network; and including all of the other limitations in the respective independent claims.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol S. W. Tsai whose telephone number is (571) 272-2224. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571) 272-2216. The fax number for TC 2800 is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2800 receptionist whose telephone number is (571) 272-1585 or (571) 272-2800.

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In order to reduce pendency and avoid potential delays, Group 2800 is encouraging FAXing of responses to Office actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 2800 will be promptly forwarded to the examiner.



Carol S. W. Tsai
Primary Examiner
Art Unit 2857

04/01/05